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Customized PTO/SB/21 (09-06)

TRANSMITTAL FORM

(for all correspondence after initial filing)

	Application #	10/510,175
	Confirmation #	6642
	Filing Date	October 4, 2004
	First Inventor	HARRIS
	Art Unit	2872
	Examiner	Chapel, Derek S.
Total number of pages in this submission =	Docket #	P08377US00/DEJ

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fees calculated below	<input type="checkbox"/> Reply to Missing Parts/Incomplete Application
<input checked="" type="checkbox"/> Response	<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> including Attachment(s)	<input type="checkbox"/> Information Disclosure Statement
<input type="checkbox"/> After Final Amendment/Reply	<input type="checkbox"/> Drawing(s)
<input type="checkbox"/> including Attachment(s)	<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Extension of Time Petition	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>

FEES CALCULATION: For claims if required and/or other fees as shown below:

	NOW	Previously Paid For	Present Extra	Rate	\$
<input type="checkbox"/> TOTAL CLAIMS		- 20		X \$ 50 =	
<input type="checkbox"/> INDEPENDENT CLAIMS		- 3		X \$ 200 =	
TOTAL OF ABOVE CLAIMS FEES =					
<input type="checkbox"/> Reduction by 1/2 for small entity status of applicant					
SUBTOTAL =					
<input type="checkbox"/> Fee for extension of time (per attached Petition)					
<input type="checkbox"/> Other fee for					
TOTAL OF ALL FEES =					

☐ Payment by credit card. FORM PTO-2038 in the amount of \$ is attached.

- ☒ The Director is authorized to charge any fee, additional fee or extension fee due in connection herewith to Deposit Account No. 12-0555:
- (1) if no payment or an insufficient payment is enclosed and a fee is due in connection herewith; or
- (2) if no petition for extension of time is enclosed but an EOT is required - and in this event, applicant hereby petitions under 37 CFR 1.136(a) for an extension of time of as many months as are required to render this submission timely.

Date: November 16, 2006

Douglas E. Jackson
By: Douglas E. Jackson
Registration No.: 28,518

STITES & HARBISON PLLC ♦ 1199 North Fairfax St. ♦ Suite 900 ♦ Alexandria, VA 22314
TEL: 703-739-4900 ♦ FAX: 703-739-9577 ♦ Customer No. 00881



RESPONSE

Application #	10/510,175
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

S I R:

In response to the restriction requirement contained in the Office Action dated October 18, 2006, Applicant hereby **traverses this restriction requirement** for the following reasons.

The claims of the present application define a confocal microscope or endoscope, while USP 5,929,985 discloses a transmission conduit 105 (and G25) on the optical path to a detector that may be in the form of a coherent optical fiber bundle. However, USP 5,929,985 does not disclose the use of the fiber bundle in the confocal manner of the present invention. Rather, USP 5,929,985 explains that the bundle must have a fiber density that is high enough to preserve the image (column 7, lines 35-37), but there is no disclosure of arranging the optical fiber bundle (or indeed of the first transmission conduit 101) confocally. Indeed, as the optical arrangement required to ensure confocality is wavelength dependent, the teachings of USP 5,929,985 that the disclosed imaging probe is "multispectral" and "delivers a range of wavelengths of excitation light to a target" (see Abstract) teaches against the suitability of the disclosed apparatus for confocal applications. Therefore, it is submitted that the claims of the present application are indeed novel and non-obvious over USP 5,929,985.

Furthermore, USP 5,929,985 does not teach that the second transmissive conduit provides "a return channel for fluorescent return light". In fact, there is no teaching in USP 5,929,985 that the disclosed multispectral imaging probe is suitable for collecting fluorescent return light.

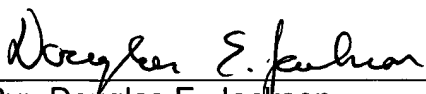
Therefore, it is submitted that the restriction requirement is improper and that all claims should be examined.

However, as applicant is required to elect a group in response to this Action even if the restriction requirement is traversed, applicant hereby **provisionally elects Group III, claims 1, 5 and 9-10**, drawn to a confocal microscope or endoscope including a spatial filter, to be examined.

As Group II has not been elected, the further election requirement contained in the Office Action is not applicable.

Further and favorable action is solicited.

Date: November 16, 2006


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TEL: 703-739-4900 ♦ FAX: 703-739-9577 ♦ CUSTOMER NO. 00881